

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

TONY DURHAM,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:23-CV-00810-RK
)	
WILTGENS OF MISSOURI INC.,)	
)	
Defendant.)	

ORDER

Plaintiff's Complaint (doc. 1) was filed on November 5, 2023. On November 12, 2023, Plaintiff filed the Return of Service of Complaint Executed (doc. 5) showing that Defendant Wiltgens of Missouri, Inc. was served on November 8, 2023. Thus, it appears Defendant Wiltgens of Missouri, Inc.'s answer or other response was due on or before November 29, 2023. To date, no answer or other response has been filed, and the time for Defendant Wiltgens of Missouri, Inc. to respond appears to have expired. *See* Fed. R. Civ. P. 12(a)(1)(A). However, Plaintiff has not sought an entry of default against Defendant Wiltgens of Missouri, Inc. for failure to answer or otherwise defend. *See* Fed. R. Civ. P. 55(a).

On January 17, 2024, the Court entered an Order to Show Cause directing Plaintiff to show cause on or before January 24, 2024, why this case against Defendant Wiltgens of Missouri, Inc. should not be dismissed for failure to prosecute. (Doc. 6.) The Order also warned that if Plaintiff failed to show cause or seek an entry of default by January 24, 2024, his claims against Defendant Wiltgens of Missouri, Inc. may be dismissed for failure to prosecute without further notice. (*Id.*) To date, Plaintiff has not complied with the Court's Order to Show Cause of January 17, 2024.

It is the Court's duty to ensure that the Court and the parties "secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. This result may not be achieved without a good-faith effort by the parties to respond to the Court's orders in a timely manner.

Accordingly, it is **ORDERED** that this case is dismissed, without prejudice, pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and for failure to comply with this Court's order.

IT IS SO ORDERED.

s/ Roseann A. Ketchmark

ROSEANN A. KETCHMARK, JUDGE
UNITED STATES DISTRICT COURT

DATED: January 30, 2024